

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6099

BILL NUMBER: SB 357

DATE PREPARED: Apr 6, 1999

BILL AMENDED: Apr 5, 1999

SUBJECT: Interstate commerce exemption for inventory tax.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) ***Inventory Exemption Filing:*** This bill provides that a manufacturer or processor that possesses property held for transshipment to an out-of-state destination may claim certain interstate commerce exemptions from the property tax imposed upon inventory if the manufacturer or processor is able to show that the owner of the property would otherwise have been qualified for the exemption.

Inventory Packaging: The bill provides that the property tax exemption for certain property that is stored in Indiana for shipment to an out-of-state destination and is in its original package also applies to property that is not stored in its original package if packaging is not practical until receipt of a final customer order.

Late Abatements: This bill permits a city, town, or county to grant tax abatement if the application for the abatement was not filed in a timely manner. It requires a designating body granting an abatement in those circumstances to determine that the applicant has fully complied with the applicant's statement of benefits. The bill also provides that the applicant's deduction is reduced by specified percentages, depending on when the late application is filed and it allows a designating body to charge a \$500 filing fee for considering a request for a waiver from certain abatement filing and designation requirements.

Abatement Base: The bill specifies that the provision limiting a property tax abatement for new manufacturing equipment to the extent that it would cause the assessed value of all personal property of the owner in the taxing district in which the equipment is located to be less than the assessed value of all personal property of the owner in that taxing district in the immediately preceding year does not apply to new manufacturing equipment located in a particular township if the total original cost of all new manufacturing equipment placed into service by the owner during the preceding 60 months exceeds \$50,000,000.

Abatement Filing: This bill provides that information included in a deduction application for property

located in economic revitalization area or a residentially distressed area must be updated by June 15 of the year following the year in which the deduction is applicable (instead of within 60 days of the end of the year following the year in which the deduction is applicable). It also provides that information concerning compliance with a statement of benefits relating to property located in an economic revitalization area must be submitted before June 15 of the year following the year in which the deduction is applicable. The bill provides that the designating body of the economic revitalization area must determine whether the property owner has substantially complied with the statement of benefits before August 15 (instead of within 45 days of receipt of the information concerning compliance).

Sports Development Area: This bill allows the governing body of a school corporation to establish as part of a Professional Sports and Convention Development Area (PSCDA) a facility owned by a county building authority.

Effective Date: (Amended) January 1, 1999 (Retroactive); July 1, 1999; January 1, 2000.

Explanation of State Expenditures:

Explanation of State Revenues: (Revised) ***Inventory Packaging, Late Abatements, & Abatement Base :*** The State levies a one cent tax rate for State Fair and State Forestry. Any reduction in the assessed value base will reduce the property tax revenue for these two funds.

Sports Development Area: This bill provides that a facility used by a professional sports franchise or for convention and tourism related events may be included in a professional sports and convention development area (PSCDA) if it is owned by a local building authority. Under current law, a PSCDA may include only facilities owned by a city, a county, a school corporation, a local capital improvement board (only in counties not containing a consolidated city), a civic center's board of directors in South Bend and Mishawaka, or the Building Authority in Gary. This provision would allow facilities that would otherwise not be eligible for inclusion to be incorporated into the area. It is not know how many existing facilities would be affected, and the precise impact of future development cannot be determined.

The bill would also allow the governing body of a school corporation to establish PSCDAs (only city and county legislative bodies may do so under current law). As of April 1999, there were PSCDAs established in Evansville, Fort Wayne, Huntingburg, and South Bend (the Marion County/Indianapolis area is established under a separate chapter of the IC and would be unaffected by this bill). This provision is not expected to result in the creation of a PSCDA that would not otherwise be established.

PSCDAs are special zones in which certain state and local tax revenues earned in the area are diverted and deposited into a special fund. This fund is dedicated for capital improvement in the development area. The taxes which may be captured in PSCDAs are the gross retail tax, the individual adjusted gross income (AGI) tax, the food and beverage tax, and local option income taxes. If additional facilities owned by local building authorities were included in PSCDAs, more state revenue could be diverted into PSCDA funds. However, the amount of money which may be captured is limited to \$5 for each resident of the city or county, and any collections in excess of the maximum allowed would be realized as normal state revenue.

Food and beverage taxes and local option income taxes earned in PSCDAs are also captured for capital improvement, and there is no limit on the amount of local taxes that may be captured. The inclusion of facilities owned by local building authorities in development areas would increase PSCDA funds by the full

amount of additional food and beverage, COIT, CAGIT, and CEDIT tax revenue they generate. The increase in revenue would be directed to the PSCDA instead of other local taxing units in the county as provided under current law.

Explanation of Local Expenditures:

Explanation of Local Revenues: (Revised) ***Inventory Exemption:*** Under current law, finished goods inventory owned by a manufacturer or processor is exempt from property taxation if the property is stored in its original package and will be shipped to another state. Certain other inventory property that is stored in an Indiana warehouse and will be shipped to another state is also currently exempt. The *owner* of this property must file an Indiana property tax return and exemption claim in order to receive the exemption.

Under this proposal, the *possessor* of the inventory would be able to claim the exemption if: 1) the assessed value of the inventory is included in the *possessor's* property tax return, and 2) the *owner* would have qualified for the exemption under current law.

The provision would allow the *possessor* of the property to file one property tax return for all of the non-owned property in their possession and claim the same exemptions on the same property to which the *owners* are currently entitled, if they so desire.

Since, under the proposal, the *owner* must qualify for the exemption before the *possessor* may claim it, this provision would have no real fiscal impact. There are two situations, that as a practical matter, could have an insignificant impact.

1. If an *owner* who would currently qualify for the exemption does not file an Indiana property tax return or exemption claim, and if the property has been assessed to the *possessor* because there is no contract stating that the *owner* is responsible for the tax, then the *possessor* may receive an exemption for property on which they are currently paying taxes. It is important to note that the owner could claim this exemption if they would only file the property tax form and exemption claim. Even though there could be a practical fiscal impact, there would not be any fiscal impact in a legal sense as the property could now be exempt.

2. Currently, if an owner cannot specifically identify the inventory that will be shipped out of state, the owner may use an allocation factor based on previous in-state and out-of-state sales. If, under this bill, the *possessor* claims the exemption and uses the *possessor's* allocation factor instead of the *owner's* factor, then the percentage of the property that is exempt could change. The extent of the change in allocation factors is unknown, but each factor could go higher, lower, or stay the same. This would only be of concern if the actual inventory destined for out-of-state could not be identified.

Overall, if there is any fiscal impact to this provision it should be insignificant. There would be no change to local revenues in any case.

Inventory Packaging: Under current law, finished goods in inventory are exempt from property tax if they are stored in their original package and destined for an out-of-state location. There is an exception to the packaging requirement that allows the exemption if the property will be damaged or have its value impaired if it is stored in original packaging. This proposal would add another exception to the packaging requirement. If it is not practical to package the finished goods until a customer order is received because each order requires a compilation of distinct finished goods into a single package, then the exemption would still apply

according to this provision.

Additional exemptions reduce the assessed value (AV) tax base. This causes a shift of the property tax burden from the taxpayers receiving the exemptions to all taxpayers in the form of an increased tax rate. One taxpayer was easily identified as being affected by this proposal. In 1997, the AV of the finished goods that were taxable, but would not be taxable under this proposal was around \$213,000. The net tax due on this AV in 1998 was approximately \$14,000. This \$14,000 would be shifted from the taxpayer in question to all other taxpayers served by the same taxing units. Although no other taxpayers that would be affected by this proposal can be easily identified, there are probably several taxpayers who could be affected by this proposal. Total local revenues, except for cumulative funds, would remain unchanged. The revenue for cumulative funds would be reduced by the product of the fund rate multiplied by the exemption amount applicable to that fund.

Late Abatements: Under current law, property tax abatements on real and personal property may be granted to taxpayers by local government. If an abatement is granted, certified deduction applications for real property must be filed by May 10 to receive the deduction for the current assessment year. Certified deduction applications for personal property must be filed by May 15 (or June 14 if the taxpayer received an extension to file their personal property return).

This provision would allow the local designating body to approve the deduction at a reduced amount even if the certified deduction application is not filed timely. The designating body would first have to determine whether the taxpayer has substantially complied with the statement of benefits. The designating body would have sole discretion to refuse to grant the waiver for any reason it considers appropriate. If the designating body resolves to allow the deduction, then the county auditor would verify the correctness of the real property deduction application and the State Tax Board would verify the correctness of the personal property deduction application. The county auditor would then make the deductions. If the deduction application is filed by June 30 then the benefits would be reduced by 50%. If the deduction application is filed after June 30 but before August 1, then the benefits would be reduced by 75%. Taxpayers could not receive benefits for deduction applications filed after July 31.

Property tax abatements cause a delay of the shift of the property tax burden from all taxpayers to the owners of the new property until the property is placed on the tax rolls. Currently, if a taxpayer fails to receive the deduction, then the shift of taxes to that taxpayer occurs immediately. By allowing the late filed deduction under this proposal, the shift is again delayed.

If the deduction under this provision is granted by the local designating body after assessed values (AV) are certified and tax rates are set, local civil units and school corporations could experience a revenue shortfall. This is because the tax rate would be computed using a tax base which includes the AV in question. If, when tax bills are prepared, property tax is not assessed against that AV, then the expected revenue may not be collected.

If the deduction under this provision is granted by the local designating body after taxes are paid, local civil units and school corporations could experience a revenue shortfall. This provision first affects property taxes payable in 1997. If any deductions are retroactively allowed for 1997 or 1998 and the taxpayer has paid the tax, then the taxpayer would be due a refund. Such a refund would reduce revenues to the taxing units serving the taxpayer in the year that the refund is made.

This provision also permits a designating body to charge a filing fee of up to \$500 to consider a waiver request. If the designating body charges such a fee, the fee would be deposited into the General Fund of the city, county, or town served by the designating body.

Abatement Base: Under Current law, a property tax abatement may not reduce a taxpayer's assessed valuation to an amount that is below the taxpayer's assessed value from the previous year. This proposal would exempt from this limitation, abatements for new manufacturing equipment if the total original cost of all new manufacturing equipment placed into service by the owner during the preceding five years exceeds \$50 million and the property is located in one of the following townships: Wilmington Twp., Dekalb Co.; Ferdinand Twp., Dubois Co.; Washington Twp., Miami Co.; Vernon Twp., Jackson Co.; Redding Twp., Jackson Co.; or Orange Twp., Noble Co.

As stated above, property tax abatements currently cause a delay of the shift of the property tax burden from all taxpayers to the owners of the new property until the property is placed on the tax rolls. If a taxpayer's assessed value is reduced from the previous year's AV under this provision, then in addition to the tax shift delay above, there will also be a shift of part of the current taxes paid by the taxpayer receiving the deduction to all other taxpayers. This shift would continue until the taxpayer's AV has been increased to its previous level through the abatement phaseout.

Total local revenues, except for cumulative funds, would remain unchanged. The revenue for cumulative funds would be reduced by the product of the fund rate multiplied by the AV reduction amount applicable to that fund.

Sports Development Area: (see above Explanation of State Revenues, Sports Development Area)

State Agencies Affected: State Board of Tax Commissioners.

Local Agencies Affected: Local Assessing Officials; County Auditors; Local designating bodies; Local civil taxing units and school corporations.

Information Sources: Beth Hammer, State Board of Tax Commissioners (232-3761); Local Government Database.